IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO: 8750 of 2005

Between:

K.Mohan Reddy, s/o Malla Reddy,
r/o Somarampet Village,
Ellanthakunta Mandal, Karimnagar District.

... PETITIONER

AND

1. Cooperative Electric Supply Society Ltd.,
(CESS) rep., by its Managing Director, Sircilla.
2. The Assistant Divisional Engineer/OP, Sub-Division,
Mustabad Cess Ltd., Sircilla.
3. The Assistant Engineer,
Cooperative Elecctricity Society ltd.,

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of the writ of mandamus by declaring the impugned notice
dt.24-3-2005 bearing letter No.CESS/D.No.450/2005 issued by the respondents as illegal, arbitrary and violative of principles of natural justice.

Counsel for the Petitioner: MR. B. VIJAYSEN REDDY

Counsel for the Respondent No.: MR.M.SREERAMULU REDDY

The Court made the following:

ORDER: -

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This writ petition is filed seeking *mandamus* declaring the notice of the respondents dated 24-03-2005 bearing Lr.No.CESS/D.No.450/2005, as illegal and arbitrary.

2. Learned Counsel for the petitioner submits that the notice dated 24-03-2005, issued by the respondents was received by the petitioner only on 23-04-2005, along with a show cause notice dated 28-02-2005 and that respondents forcibly took his signature with ante date. He further submits that respondents, without affording an opportunity to the petitioner to face the enquiry, issued the impugned notice.

3. When the matter is taken up for admission, the learned Standing Counsel for the respondents submits that as against the notice dated 24-03-2005, which is impugned in the present writ petition, petitioner has an effective alternative remedy under Section 126 of the Electricity Act,2003 (for short 'the Act'), to the Chief Engineer; the petitioner instead of availing alternative remedy of appeal under the Act, straightaway approached this Court.

4. In view of the fact that an effective alternative remedy of appeal is available to the petitioner under Section 126 of the Act, I deem it appropriate to dispose of the writ petition with the following directions. –

The petitioner is at liberty to prefer an appeal before the appellate authority, assailing the impugned notice dated 24-03-2005, within a period of three weeks from today. He shall also deposit 50% of the final bill within a period of two weeks from today. Till such time, respondents are directed not to disconnect petitioner's power supply. There shall also be a direction to the respondents to consider and pass appropriate orders on the appeal that may be filed by the petitioner, in accordance with law.

5. The writ petition is accordingly disposed of at the admission stage. No order as to costs.

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ELIPE DHARMA RAO, J

Dt.21-04-2005

Glv

ASSISTANT REGISTRAR

Copy to:

1. The Managing Director,
Cooperative Electric Supply Society Ltd.,(CESS)
Sircilla.
2. The Assistant Divisional Engineer/OP, Sub-Division,
Mustabad Cess Ltd.,
Sircilla.
3. The Assistant Engineer,
Cooperative Elecctricity Society ltd.,

Two CD copies

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